

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 97-3611

United States of America,

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Plaintiff - Appellee,

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v.

* Appeal from the United States

* District Court for the

* District of South Dakota.

Troy Fairbanks,

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*

Defendant - Appellant.

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[PUBLISHED]

Submitted: May 1, 1998

Filed: May 21, 1998

Before FAGG, BEAM, and HANSEN, Circuit Judges.

PER CURIAM.

Troy Fairbanks appeals from the 210-month sentence imposed by the district court¹ after he pleaded guilty to drug charges. The government has moved to dismiss Fairbanks's appeal, correctly noting that Fairbanks waived his right to appeal his sentence in the plea agreement. Fairbanks argues that he should not be bound by his promise because the government breached the plea agreement. Because Fairbanks failed to raise the government's alleged breach at sentencing, we decline to address this

¹The Honorable Richard H. Battey, Chief Judge, United States District Court for the District of South Dakota.

argument. See United States v. Wullschleger, No. 96-3957, 1997 WL 337554, at *1 (8th Cir. June 20, 1997) (unpublished) (declining to consider similar argument where appellant did not raise government's alleged breach of plea agreement at sentencing). We therefore specifically enforce Fairbanks's promise against him by granting the government's motion to dismiss. See United States v. His Law, 85 F.3d 379, 379 (8th Cir. 1996).

The appeal is dismissed.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.